

Offer in Compromise FAQ

What is an offer in compromise?

An offer in compromise is an agreement between the taxpayer and the Department of Revenue to settle a tax liability for less than the full amount owed because the taxpayer is unable to pay the full liability. The Department will generally accept an offer when it is unlikely the Department will collect the tax liability in full, and the offer represents the most the Department can expect to collect over a three to five year time frame.

What is the statutory basis for an offer in compromise?

The Commissioner of Revenue is authorized under state law (Tenn. Code Ann. § 67-1-102) to compromise tax liabilities if a compromise is determined to be in the best interest of the State of Tennessee. Compromises may be subject to the approval of the Attorney General and Reporter and the Comptroller of the Treasury.

Who is eligible to make an offer?

Any taxpayer who believes he or she cannot pay the liability in full immediately, or in installments through an installment payment plan, may submit a completed Offer in Compromise Application.

Please be aware that the Department cannot process an Offer in Compromise Application from a taxpayer who is the subject of an open or active bankruptcy case. The taxpayer should submit the offer through the bankruptcy proceeding instead.

Also, the Department will process an offer in compromise application only if the taxpayer:

- Has filed all required tax returns and reports
- Has fully completed the Offer in Compromise Application
- Has provided all supporting documentation
- Has responded fully to all requests for additional information and documentation

Can I submit an offer myself or do I need an accountant or attorney?

Taxpayers can submit an offer in compromise application themselves without professional representation.

If an accountant or attorney represents a taxpayer, a power of attorney must be submitted to the Department with the Offer in Compromise Application. You may find a Power of Attorney form on our website [here](#).

How do I make an offer in compromise?

To make an offer in compromise, you must completely fill out the Offer in Compromise Application on the Department's website [here](#).

Before an application will be considered, all required supporting documentation must be provided to the Department.

If the taxpayer has made a good faith effort to fill out the application in full and provide all required documentation, the Department will contact the taxpayer with a list of any missing items and allow the taxpayer a reasonable amount of time to provide them.

How do I figure out the amount to offer?

The [Offer in Compromise Application](#) includes a worksheet to assist taxpayers in determining an acceptable offer. The Department will look at the taxpayer's current income, assets, and allowable expenses to see how much the taxpayer can pay immediately and in installments over three to five years. Please see the instructions on the Offer in Compromise Application for more details about allowable expenses.

It is important to keep in mind that not all expenses are allowed. For example, the Department will not allow the taxpayer to count living costs that exceed standard living expense allowances under federal guidelines. Similarly, the Department will usually not allow the taxpayer to count debts that would not have priority over the State of Tennessee's tax lien in a bankruptcy proceeding (this includes most credit card debt and student loan debt). The taxpayer must submit documentation for all allowable expenses claimed in the application.

The Department understands that it can be hard for a taxpayer to know whether or not an expense is allowed. To be sure that no allowable expenses are missed, taxpayers should include current information about all of their expenses in the application. The Department will review the information to verify that the taxpayer is being given credit for all allowable expenses.

What should I do if I have special circumstances that affect my ability to pay?

The taxpayer may ask the Department to consider special circumstances that might affect the taxpayer's ability to pay, such as a serious illness or significant damage from a natural disaster. The taxpayer will be asked to submit documentation to support the special circumstances.

If you are a taxpayer with special medical circumstances, you may submit a letter from your doctor on his or her official letterhead generally confirming that you have a serious and/or chronic medical condition that affects your ability to pay the liability. Your doctor should include the expected duration of the medical condition, if possible.

The Department will not ask for specific information about your medical condition, such as the type of illness, unless it is absolutely necessary for evaluating the application.

Can I offer real estate or personal property to help pay off my liability?

The Department will not accept offers of real estate or personal property to pay off a taxpayer's liability. The Department will only consider offers of United States currency. Your offer can be to make a single lump sum payment or you may make installment payments over time.

Does submitting the amount computed using the application worksheet guarantee acceptance of my offer?

No. Generally, the taxpayer must offer the maximum amount the taxpayer can pay, either immediately or over a three to five year time frame. The Department will complete a full review of the taxpayer's financial position to evaluate the offer.

How is my offer evaluated?

The Department's Collection Services Division thoroughly reviews the taxpayer's Offer in Compromise Application and supporting documentation. The Department may request additional documentation to verify or clarify the information the taxpayer provides.

Once the Department receives all necessary documents and information, the taxpayer's financial position and previous tax payment history are analyzed. This includes examining the taxpayer's assets, liabilities, and ability to pay both immediately and over time.

The Collection Services Division also consults with legal counsel to determine whether a compromise is in the best interests of the State of Tennessee. Based upon the application and documents presented, a recommendation is then made to the Commissioner of Revenue for acceptance or denial. The Commissioner of Revenue must approve an offer for it to be accepted.

Some offers in compromise also require the approval of the Attorney General and Reporter and the Comptroller of the Treasury.

Does collections activity stop while my offer is pending?

No. Submitting an offer in compromise application does not automatically halt collection activity. However, the Department usually offers taxpayers a reasonable, short-term payment plan while the taxpayer's application is being evaluated. To avoid levy actions, the taxpayer is strongly encouraged to contact Collection Services at 615-741-7071 to make payment arrangements.

If the taxpayer currently has an installment payment agreement, the taxpayer must continue to make payments under the terms of the agreement while the offer in compromise is pending.

If the offer is accepted, payments received while the application was pending will be applied to the compromised liability.

Failure to stay current on all filing requirements and make installment payments by the applicable due date could result in denial of the application.

Can I withdraw my offer once I have submitted it?

Yes. A taxpayer may withdraw an offer from consideration at any time by submitting a written notification to the Department. Any payments submitted with the offer in compromise application will not be refunded.

What happens if my offer is accepted?

The Department will notify the applicant by mail if the offer is accepted.

Please keep in mind that some offers in compromise require the approval of the Attorney General and Reporter and the Comptroller of the Treasury. In those cases, the Department will notify the taxpayer that the compromise is being recommended for approval and will then follow up as soon as possible with a final decision.

When the offer is accepted, the Department will provide a compromise agreement for the taxpayer to sign and return. The Commissioner of Revenue will then sign the agreement, which will be mailed back to the taxpayer for them to retain in their records.

Payment of the accepted offer must be made by the date set out in the compromise agreement. If a state tax lien has been placed on the taxpayer's property, the Department will release the lien promptly upon receipt of full payment of the offered amount.

Payment of the offer may be made by electronic funds transfer (EFT), cashier's check or money order.

What happens if my offer is not accepted?

The Department will notify the applicant by mail if the offer is not accepted.

The taxpayer should not expect a counteroffer from the Department. The Department does on limited occasions make a counteroffer, but only if the taxpayer's initial offer is reasonably close to what the Department believes is acceptable based on the taxpayer's financial information.

The Department recognizes that many taxpayers are unable to pay a tax liability in full immediately. When the Department declines to accept an offer in compromise, the taxpayer is normally given the option of an installment payment agreement. If the taxpayer submitted sufficient financial information, the Department will include suggested payment plan terms. The taxpayer may also request that the Department consider alternative terms.

The taxpayer will be given a reasonable amount of time to consider whether to proceed with a payment plan before collection activity begins. The taxpayer must contact the Department to make payment arrangements by the date stated in the letter or collections activity will begin.

Why might my offer be rejected?

An offer in compromise may be rejected for a variety of reasons. An offer will likely be rejected if the taxpayer:

- Has the ability to pay the tax liability in full, either immediately or on an installment payment agreement;
- Has provided insufficient documentation, despite Department requests for additional information;
- Omitted or undervalued income or assets on the application;

- Has collected the taxes at issue from customers but failed to remit to the Department;
- Has a history of regular or willful non-compliance with Tennessee tax laws; or
- Has a history of criminal tax fraud (conviction, guilty plea, or “nolo contendere” (no contest) plea).

Where do I send my offer?

Offer in compromise applications and all supporting documentation should be mailed to:

Tennessee Department of Revenue
Andrew Jackson State Office Building
500 Deaderick Street
Nashville, TN 37242

What if my offer in compromise is based on a legal argument instead of inability to pay?

Some taxpayers make an offer based on a legal or policy argument, even though they can pay the tax liability in full either immediately or over time with an installment payment agreement.

Offers in compromise based on legal or policy arguments should be sent to the Commissioner of Revenue at the Andrew Jackson State Office Building, 500 Deaderick Street, Nashville, TN 37242. The taxpayer should submit a detailed written statement setting out their legal argument along with the offer. The taxpayer does not need to fill out the Offer in Compromise Application. Taxpayers are encouraged to consult with a tax professional before proceeding.

Please be aware that submitting an offer in compromise does not push back the legal deadline for requesting an informal conference or for filing suit to challenge an assessment. Information about your rights as a taxpayer is included with the Notice of Proposed Assessment that you received.

I have questions about the Offer in Compromise Application. Who should I contact?

Contact the Department at (615) 360-0401 or Revenue.Offers@tn.gov, if you need assistance in completing the application.